

THE LAW OFFICE OF

ELISA HYMAN, P.C.

April 11, 2022

VIA ECF

Honorable Mary Kay Vyskocil
United States District Court
Southern District of New York
500 Pearl St.
New York, New York 10007

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/13/2022
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Re: *C.S. et al. v. N.Y.C. Dep't of Educ., et al.*
21-cv-7927 (MKV)

Dear Judge Vyskocil:

I represent the Plaintiffs¹ in the above-referenced case and write jointly with counsel for the Defendants to respectfully request an adjournment of the initial conference currently scheduled for April 19, 2022 and a corresponding extension of time to submit a proposed Case Management Plan ("CMP"). ECF No. 20. The parties respectfully request an adjournment of the conference *sine die*; alternatively, Plaintiffs request, and Defendants consent to, a short adjournment of the initial conference due to counsel's unavailability on April 19th. This is the parties' third request for an adjournment and extension; the Court granted the parties' prior applications. ECF Nos. 17–20.

As previously reported, the main thrust of Plaintiffs' allegations is that Defendants have not provided timely payment to providers for services rendered pursuant to favorable administrative IDEA decisions. The parties have been working to resolve the outstanding payment issues over the course of this case, but the resolution has been complicated for a variety of reasons. Because the parties have not resolved the issue of outstanding payments, Plaintiffs have yet to provide Defendants with their billing records so that Defendants may seek settlement authority to negotiate this aspect of the settlement. Just today, however, Plaintiffs' counsel received information that Defendants have made substantial payment efforts for at least one provider.² In an effort to move resolution of this case further along, Plaintiffs will provide a draft Stipulation of Settlement and the billing records to Defendants today, April 11, 2022, without waiving their right to seek additional fees if this payment issue is not shortly resolved. Defendants require

¹ Plaintiffs are parents of a young woman with multiple disabilities who was a student in the New York City school system. Plaintiffs in this action allege that the New York City Department of Education ("DOE"), Chancellor David Banks and the New York City Board of Education ("BOE") (collectively "Defendants" or "DOE") failed to implement orders of administrative hearing officers under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §1415(j), and in violation of the Due Process Clause of the 14th Amendment of the U.S. Constitution, 42 U.S.C. §1983, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794 ("Section 504").

² The provider was owed over \$25,000 in unpaid invoices and received payment of almost 90% of the outstanding monies owed on April 10th.

approximately 30 days to review Plaintiffs' billing records and obtain authority to settle this aspect of the case.³

An additional reason for this adjournment request is because Plaintiffs' counsel is out of the office April 13th through April 22nd; the initial conference is scheduled for April 19th while the undersigned will be out of the country for the holidays.

For these reasons, the parties respectfully request an adjournment of the initial conference *sine die*. The parties respectfully submit that an initial conference is not necessary at this time as settlement seems likely. The parties respectfully propose that, if the action does not move closer to finalizing a settlement within 60 days, the parties will then submit a CMP and/or propose a motion schedule with Your Honor. As previously indicated, the parties do not wish to spend time and resources engaging in discovery and/or motion practice, if the case can successfully be resolved via a settlement. In 60 days, or no later than June 6, 2022, the parties propose submitting an updated status letter.

If, however, Your Honor is not inclined to endorse the parties' proposal described above, Plaintiffs respectfully request an adjournment of the initial conference scheduled for April 19th due to counsel's unavailability. Plaintiffs respectfully request that the conference be adjourned to early May to allow the parties time to craft a CMP after counsel's return. Defendants consent to this adjournment request.

Thank you for Your Honor's consideration of these requests and patience with this case.

Respectfully Submitted,
THE LAW OFFICE OF ELISA HYMAN, P.C.

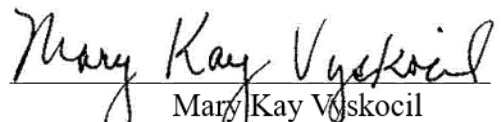
By: Erin O'Connor

Erin O'Connor, Esq., Of Counsel
Counsel for Plaintiffs

³ The parties have successfully resolved claims for attorneys' fees without court intervention or motion practice and believe they could do so here.

GRANTED. The initial pre-trial conference scheduled for April 19, 2022 at 10:00 AM is ADJOURNED to May 31, 2022 at 10:00 AM. The initial pre-trial conference will be in-person in Courtroom 18C of the Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, New York. The Court will not allow these proceedings to drag on. One week before the initial pre-trial conference the parties are directed to file either a letter proposing a briefing schedule or a Proposed Case Management Plan and Scheduling Order and joint letter, as required by this Court's Individual Rules of Practice and the Court's Order scheduling the initial pre-trial conference at ECF No. 15. The Court will not adjourn the initial pre-trial conference again. SO ORDERED

Date: 4/13/2022
New York, New York


Mary Kay Vyskocil
United States District Judge